

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
NATIONAL RAILROAD PASSENGER :  
CORPORATION, :  
: Plaintiff, :  
v. :  
: :  
ARCH SPECIALTY INSURANCE COMPANY; :  
ASPEN SPECIALTY INSURANCE COMPANY; : 14 Civ. 7510 (JSR)  
COMMONWEALTH INSURANCE COMPANY; :  
FEDERAL INSURANCE COMPANY; LEXINGTON :  
INSURANCE COMPANY; LIBERTY MUTUAL FIRE :  
INSURANCE COMPANY; CERTAIN :  
UNDERWRITERS AT LLOYD'S OF LONDON and :  
CERTAIN LONDON MARKET COMPANIES :  
Subscribing to Policy Nos. 507/N11NA08240, :  
507/N11NA08241, 507/N11NA08242, :  
507/N11NA08244, 507/N11NA08244, :  
507/N11NA08245 and GEP 2944; MAIDEN :  
SPECIALTY INSURANCE COMPANY; MAXUM :  
INDEMNITY COMPANY; NAVIGATORS :  
INSURANCE COMPANY; PARTNER :  
REINSURANCE EUROPE plc; RSUI INDEMNITY :  
COMPANY; STEADFAST INSURANCE COMPANY; :  
TORUS SPECIALTY INSURANCE COMPANY; and :  
WESTPORT INSURANCE CORPORATION, :  
: Defendants.  
: :  
-----x

**DECLARATION OF COSTANTINO P. SURIANO IN SUPPORT OF INSURERS'  
MOTION IN LIMINE [NO. 3] TO PRECLUDE NON-RELEVANT/INFLAMMATORY  
REFERENCES TO ISSUES UNRELATED TO AMTRAK'S CLAIMS UNDER THE  
POLICIES**

COSTANTINO P. SURIANO, an attorney admitted to practice in the Southern District of New York, declares the following under penalty of perjury:

1. I am a member of the law firm Mound Cotton Wollan & Greengrass LLP, counsel for Defendants Commonwealth Insurance Company, Lexington Insurance Company,

Maiden Specialty Insurance Company, Steadfast Insurance Company, and International Insurance Company of Hannover SE, several of the Defendants in this action (collectively, along with the other Defendants, "Insurers").

2. I am familiar with the proceedings in this matter and submit this declaration in support of Insurers' Motion *in Limine* No. 3 to Preclude Non-Relevant/Inflammatory References to Issues Unrelated to Amtrak's Claims Under the Policies.

3. Attached as Exhibit A is a true and correct copy of an excerpt of the transcript from the February 3, 2015 hearing before the Court.

Dated: New York, New York  
June 30, 2015

Constantine P. Scuriaco

# Exhibit A

F23LAMTA

Argument

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
2 -----x  
3 NATIONAL RAILROAD PASSENGER  
3 CORPORATION,

4 Plaintiff,

5 v. 14 CV 7510 (JSR)

6 ARCH SPECIALTY INSURANCE, et  
7 al.,

8 Defendants.  
8 -----x

New York, N.Y.  
February 3, 2015  
2:32 p.m.

10 Before:  
11

HON. JED S. RAKOFF,

12 District Judge

13 APPEARANCES

14 ANDERSON KILL LLP  
15 Attorneys for Plaintiff  
16 BY: RHONDA D. ORIN  
17 DANIEL HEALY  
MARSHALL GILINSKY  
PETER HALPRIN

18 ROPES & GRAY LLP  
19 Attorneys for Defendants Partner Re, et al.  
BY: CATHERINE A. MONDELL

20 MOUND COTTON WOLLAN & GREENGRASS  
21 Attorneys for Defendants Lexington, et al.  
BY: COSTANTINO P. SURIANO

22 FINAZZO COSSOLINI O'LEARY MEOLA & HAGER, LLC  
23 Attorneys for Defendant Liberty Mutual  
BY: CHRISTOPHER FINAZZO

24 BRUCKMANN & VICTORY LLP  
25 Attorneys for Defendants Arch, et al.  
BY: ARJANG VICTORY  
TIMOTHY CHURCH

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Argument

1 government and a lot of the disadvantages of government. It is  
2 responsible, for example, under FOIA as having government  
3 disclosure obligations. It doesn't have rights to funds that  
4 are available to government entity railroads through FEMA, for  
5 example. FEMA has a government way of providing financing.  
6 That's not available to Amtrak because it's a private  
7 for-profit corporation.

8                 Amtrak has extraordinary safety issues in its daily  
9 operations. It has the public trust in its responsibility.  
10 And it has extremely important national security issues,  
11 Department of Homeland Security issues. These tunnels have  
12 always been of concern dating back to World War II when there  
13 was concern about damage to the tunnels back then.

14                 THE COURT: While all that you say is interesting, it  
15 is, I think, to be frank, irrelevant. So I think on this  
16 motion the question is, is your interpretation of the various  
17 definitions of flood the only reasonable interpretation as a  
18 matter of law. Yes?

19                 MS. ORIN: Yes.

20                 THE COURT: Okay. So let's talk about that.

21                 MS. ORIN: In that context, your Honor, the reason our  
22 interpretation is the only reasonable interpretation is the  
23 context of these policies, this insurance program, and what was  
24 going on in the insurance industry at the time these policies  
25 were purchased.

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